



department for
**culture, media
and sport**

Consultation

Gambling Act (Gaming Machines in Bingo Premises) Order
2008

25 June 2008

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Section 1: Introduction

Summary

1.1 Section 172(7) of the Gambling Act 2005 authorises a holder of a bingo premises licence under the Act to offer up to four Category B gaming machines for use on the premises. The Categories of Gaming Machine Regulations 2007 (SI 2007/2158) subsequently determined that Category B3 machines, with a maximum stake of £1 and a maximum prize of £500, or Category B4 machines, with a maximum stake of £1 and a maximum prize of £250, were the Category B machines that could be offered under this provision.

1.2 Under Section 172(11)(a) of the Gambling Act 2005, the Secretary of State is enabled to make an Order amending any provision of Section 172 so as to vary the number of machines authorised by a specified kind of premises licence.

1.3 On 25 June 2008, Gerry Sutcliffe (the Minister with responsibility for gambling) announced that in the light of representations made by the Bingo Association and others in the period after the implementation of the Act on 1 September 2007, the Government had decided to consult on a proposal that the Secretary of State should exercise his power under Section 172(11)(a) and make an Order for affirmative resolution in Parliament, increasing to eight the maximum number of Category B3 gaming machines which individual bingo clubs might offer. This change would only apply to bingo clubs which operated a strict over-18 only entry policy.

1.4 In his written statement the Minister explained the background to the proposal and some of the main reasons why he came to the decision to put forward this proposal. The attached Consultation Document invites views on the proposal. We anticipate that it will be of particular interest to:

- existing and potential new operators in the bingo industry;
- operators in other sections of the gambling industry;
- organisations representing older people;
- licensing authorities; and
- organisations with an interest in problem gambling.

1.5 For comments, feedback or further information please contact:

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The consultation period will run from Thursday 26 June 2008 to Friday 26 September 2008.

1.6 A summary of responses will be published shortly after the closing date. Please note that all information in responses, including personal information, may be subject to publication or disclosure under the Freedom of Information Act 2000. Confidentiality cannot be guaranteed to any correspondents, and will only be possible if considered appropriate under the legislation.

Section 2: Proposals for Consultation

Summary

2.1 Section 172(7) of the Gambling Act 2005 (“the Act”) authorised a holder of a bingo premises licence under the Act to offer up to four Category B gaming machines for use on the premises. The Categories of Gaming Machine Regulations 2007 (SI 2007/2158) determined that Category B3 or B4 machines were the Category B machines that could be offered under this provision.

2.2 Under Section 172(11)(a) of the Act, the Secretary of State may make an Order amending any provision of Section 172 so as to vary the number of machines authorised by a specified kind of premises licence.

2.3 This consultation document invites views on a proposal to increase the maximum number of Category B3 gaming machines which individual bingo clubs may offer from four to eight. The Government believes that this level of increase achieves a satisfactory balance between taking ameliorative action to address economic difficulties being experienced by the bingo industry (see below), and ensuring that the objectives of the Gambling Act in relation to public protection are properly observed.

2.4 As a further protection against exposing young and vulnerable people to gambling, however, it is proposed that the additional entitlement would only apply to bingo clubs which operate a strict over-18s only entry policy.

Background

i) *The Gambling Act 2005*

2.5 The main objectives of the Act are:

- to prevent gambling from being a source of crime or disorder;
- to ensure that gambling is conducted in a fair and open way; and,
- to protect children and other vulnerable persons from being harmed or exploited by gambling.

2.6 To this end, the 2005 Act established a new system of regulation for gaming machines, which replaced the previous system of regulation under Part III of the Gaming Act 1968. The new system controls where gaming machines can be provided for use by customers, the numbers of machines of different types that may be made available in different kinds of premises, the manufacture and supply of machines, and the circumstances in which they can be used, including age limits for use.

2.7 The Act, and regulations made under it, place strict limits on the number of gaming machines that may be made available in different premises, and on the limits on stakes and prizes of those machines. The maximum stake and prizes for different categories of gaming machines were set by the Categories of Gaming Machine Regulations 2007(SI 2007/2158). These are summarised in the table overleaf. The

same regulations also stipulate that the Category B machines which bingo clubs may offer are Category B3 or B4 machines.

Category of machine	Maximum "Stake"	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B3A	£1	£500
B4	£1	£250
C	50p	£35
	10p money prize	£5 money prize
D	30p non-money prize	£8 non-money prize

2.8 In addition, regulations under Section 240 of the Act put in place a range of protections governing the use of machines. These include restrictions on how much money may be deposited in a gaming machine at one time, restrictions on the use of auto-play on certain classes of machine, and requirements relating to information that must be displayed on machines. These regulations are backed up by a range of technical standards designed to protect consumers. These are laid down and enforced by the Gambling Commission.

2.9 Bingo halls are currently permitted to offer up to four machines in Categories B3 (machines with a £1 maximum stake and a £500 maximum prize) or B4 (machines with a £1 maximum stake and a £250 maximum prize), together with an unlimited number of Category C and D machines.

2.10 The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 also require that in any bingo premises where children or young people are permitted to enter, any area of the premises in which Category B and C gaming machines are located must be properly separated from the rest of the premises by a physical barrier and be properly supervised at all times.

ii) *Bingo Association campaign*

2.11 The Bingo Association has been campaigning since the autumn of 2007 to persuade the Government to take ameliorative action to address economic difficulties being faced by the bingo industry.

2.12 The Association presented strong evidence that the situation in the bingo industry has been particularly acute, and that many bingo clubs have had to close. According to the Gambling Commission's annual report for 2006/07, there were 634 bingo clubs operating at 31 March 2007, a

reduction of approximately 9% from the 696 clubs operating on 31 March 2004. 37 more clubs closed in Great Britain during 2007/08, around 6% of the total across the industry.

2.13 The 2007 Henley Report commissioned by the Association found that for many people, especially older and retired women, bingo is the main or sole leisure pursuit outside of the home and that bingo clubs provide a unique social network for both members and employees. Despite the range of deregulatory measures that the Government has already introduced through the Gambling Act to assist the bingo industry, it is clear that the future of bingo clubs in many communities is under threat.

Rationale for government intervention

2.14 Gerry Sutcliffe, the Minister with responsibility for gambling, set out his response to the Bingo Association's campaign in a written statement on 25 June 2008.

2.15 In his written statement the Minister made it clear that the Government accepted the picture of economic hardship painted by the Bingo Association, and sympathised with the very difficult trading conditions in the industry. He noted that a number of sectors of the gambling industry had experienced a downturn, but that there was strong evidence that the situation in the bingo industry had been particularly acute.

2.16 He indicated that there were likely to be a range of reasons for the current downturn and noted that while the evidence presented to the government had concentrated almost exclusively on regulatory factors, it attached lesser or no weight to other possible factors.

2.17 The Minister accepted the Bingo Association's case that bingo clubs play an important social role in many localities. He was also satisfied that a number of other special circumstances applied to the bingo industry. These include the fact that the industry's business model meant that there was very high demand for machines during relatively short periods of the day in between sessions of bingo play, which may impair the fair and open conduct of gambling.

2.18 The Minister also noted two further points made by the Bingo Association:

- while, as a result of the Gambling Act 2005, casinos, betting shops and Adult Gaming Centres all received an enhancement to their gaming machine entitlement in return for taking on the enhanced social responsibilities required by the Act, bingo halls retained the same gaming machine entitlement that they had under the Gaming Act 1968; and
- bingo halls provide a softer gambling environment in which the gaming machines offered are ancillary to bingo.

2.19 In his statement the Minister rejected proposals which would potentially increase the number of Category B3 machines which bingo halls may offer to up to 16. He indicated that public protection remained his overriding priority.

2.20 The Minister referred to representations he had received concerning what were dubbed Section 16 and Section 21 machines under the previous legislation. Whatever the view in some sections of the industry of what the Gaming Act 1968 and the Lotteries and Amusements Act 1976 permitted, the

Minister decided that there was little value in prolonging that debate now. The current legal position is beyond doubt.

Policy options

2.21 The Gambling Act 2005 has established a comprehensive system of regulation for gaming machines, including limits on the number of gaming machines that may be offered on different types of premises, and the limits on the stakes and prizes for different categories of machine. The Minister has therefore decided that the requests for changes to stake and prize levels, and limits on machine numbers, should be considered in the context of the new framework established by the Act and agreed by Parliament. That framework gives Parliament the final say on any proposals; it is for the Government to decide what proposals should be the subject of public consultation and then presented to both Houses of Parliament for their consideration.

2.22 The Association has argued that one way to address the current decline would be for DCMS to adjust limits set out in Section 172(7) of the Act in order to increase the number of Category B3 gaming machines (maximum stake £1, maximum prize £500) which individual bingo clubs may offer customers.

2.23 The Association proposed two possible ways of increasing bingo halls' Category B3 entitlement:

- (i) a flat increase of six gaming machines per club, taking the total number of machines permitted in each club to 10. This would increase the number of Category B3 machines nationally by about 2,700. This simple approach would particularly benefit smaller clubs, whose entitlement in relation to the number of customers would be the same as for larger clubs.
- (ii) the B3 machine entitlement to be linked to the size of the gaming area as defined in the premises licence. The Association suggested that the revised entitlement of machines be allocated on a tiered basis, as follows:
 - Clubs with a gaming floor area of up to 8,000 sq ft: up to 8 machines
 - Clubs with a gaming floor area of 8001-18,000 sq ft: up to 12 machines
 - Clubs with a gaming floor area of over 18,000 sq ft: up to 16 machines

2.23 The Minister in his written statement made clear that in his view that an increase of anything up to 16 machines went too far. In his view an increase of this proportion, allowing as many as 16 Category B3 machines in a single bingo premises, would be inconsistent with the precautionary approach that the government has taken to gambling regulation. He has concluded that it could pose a real risk in public protection terms, and thus a threat to the licensing objectives as set out in the Act.

2.24 The Minister takes was more attracted to a blanket increase per club, as proposed in option (i), which is consistent with the approach taken previously to the gaming machine entitlement of bingo halls in the Act, and would be more straightforward for the Gambling Commission and licensing authorities to monitor. However, he continues to feel some concern at the impact that the overall level of increase being proposed under option (i), permitting a maximum ten Category B3 machines per premises, might have in public protection terms.

2.25 On balance, the Minister has been persuaded that the situation facing the bingo industry is sufficiently grave, and the circumstances surrounding bingo sufficiently distinct, to justify considering in

more detail whether a smaller increase in the number of Category B3 machines than proposed in either option above might be possible without jeopardising the Government's overall principal priority in gambling policy, which remains to protect the public.

2.26 He has therefore decided that the Department should consult on the basis of a smaller increase of up to four Category B3 gaming machines per bingo hall, creating a revised maximum of eight such machines per premises. He takes the view that this smaller increase would go some way to meeting his concerns about the potential impact of an increase on the licensing objectives set out in the Act, whilst still providing a significant potential boost to the bingo industry in the way that an even smaller increase of, say, 2 machines would not.

2.27 In order to further minimise the possibility of any adverse impact upon the licensing objectives, the Minister also proposes to provide an added safeguard by specifying in the amending legislation that the increase will only apply in relation to those bingo halls which maintain a strict over-18s only policy. Bingo halls which admit under-18s will not be eligible to benefit from the increase.

Prior consultation

2.28 The Minister has considered carefully a range of representations made by the Bingo Association and was able to hear at first hand the experience of some bingo operators at the Bingo Association Annual General Meeting on 30 April.

2.29 The Bingo Association campaign has attracted significant support in Parliament. 69 MPs have signed Early Day Motion 132 in support of the current bingo campaign and 159 have signed Early Day Motion 840 in support of bingo and seaside arcades. The issue has been raised in a range of written and oral questions, and during debates in the House on related legislation including the recent Finance Bill and the Geographical Distribution of Large and Small Casinos Premises Licences Order. This widespread, cross-party support in Parliament has been influential in Ministers' decision to bring forward the current proposal.

Next steps

2.30 Subject to the results of this consultation, the intention is to draft a Statutory Instrument proposing the increase of the present maximum number of Category B3 machines which bingo clubs may offer from four to eight; to lay it before Parliament in autumn 2008, in order to have the necessary debate prior to affirmative resolution; and, if it is approved, to bring the Order into force as soon as possible thereafter.

Section 3: Consultation Questions

3.1 You are invited to comment on any aspect of this consultation document. However, you may find it useful to refer to the questions below, which cover the main points on which we would particularly welcome views. Please be as specific as possible in your response.

Question 1: Do you agree with the proposal to increase the number of Category B3 gaming machines that bingo clubs may offer from four to eight?

Question 2: Do you agree that the circumstances in the bingo industry are sufficiently exceptional and special to justify this change?

Question 3: Do you think that this change could lead to an increase in problem gambling in bingo clubs, or cause any other problems?

Question 4: Do you agree that the increase should only apply to premises which operate a strict over-18s door policy?

Question 5: Do you have any alternative suggestions for how Government might support the bingo industry?